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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/526,777	03/16/2000	Jon K. Curry	1019-P-1	1768

7590

12/11/2001

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EXAMINER

LOFDAHL, JORDAN M

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 12/11/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/526,777

Applicant(s)

CURRY, JON K.

Examiner

Jordan M Lofdah!

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 7-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koros et al. (5,593,157) and further in view of Markham (5865146)..

As to claim 7, the device Koros et al. (Fig. 1) discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center (12), an outer surface, a wall one-sixteenth to five sixteenths of an inch thick (Col. 2, lines 31-33), a felt cover (18) affixed (19) to the outer surface of the core, at least one elongate strip of material extending over the outer surface as a line of demarcation (21). Not disclosed is the device being non-spherical and points on the outer surface at varying distances from the center. Markham, however, discloses a device that is non-spherical and points on the outer

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surface at varying distances from the center (fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device of Koros et al. with the shape of Markham to create a device with a means to bounce erratically.

As to claim 9, the device Koros et al. (Fig. 1) discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center (12), an outer surface, a wall one-sixteenth to five sixteenths of an inch thick (Col. 2, lines 31-33), a felt cover (18) affixed (19) to the outer surface of the core, at least one elongate strip of material extending over the outer surface as a line of demarcation (21). Not disclosed is the device being non-spherical and points on the outer surface at varying distances from the center. Markham, however, discloses a device that is non-spherical and points on the outer surface at varying distances from the center (fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device of Koros et al. with the shape of Markham to create a device with a means to bounce erratically. The device, as modified, is capable of bouncing along a straight line if rotating about its axis (12, '146).

As to claim 11, the device Koros et al. discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface, a wall one-sixteenth to five

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sixteenths of an inch thick and a felt cover affixed to the outer surface of the core. Not disclosed is the device being non-spherical and points on the outer surface at varying distances from the center. Markham, however, discloses a device that is non-spherical and points on the outer surface at varying distances from the center (fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device of Koros et al. with the shape of Markham to create a device with a means to bounce erratically.

As to claim 12, the device Koros et al. discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface a wall one-sixteenth to five sixteenths of an inch thick, a felt cover affixed to the outer surface of the core. Not disclosed is the device being non-spherical, points on the outer surface at varying distances from the center and a length greater than its width. Markham, however, discloses a device that is non-spherical, points on the outer surface at varying distances from the center and a length greater than its width (fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device of Koros et al. with the shape of Markham to create a device with a means to bounce erratically.

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Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koros et al., further in view of Garrison (3,830,202) and further in view of Markham (5865146).

As to claim 8, the device of Koros et al. discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface, a wall one-sixteenth to five sixteenths of an inch thick, a felt cover affixed to the outer surface of the core. The device of Koros et al., does not disclose an inner wall portion circumscribing an aperture extending completely through said core. The device Garrison (fig. 1-4), however, discloses a device with an inner wall portion circumscribing an aperture (15) extending completely through said core. It would have been obvious to one of ordinary skill in the art at the time the invention was made to create an inner wall portion circumscribing an aperture extending completely through said core of the device of Koros et al., in order to create a means to affix a rope through the aperture and maintain a gaseous volume within the device. Not disclosed is the device, as modified, being non-spherical and points on the outer surface at varying distances from the center. Markham, however, discloses a device that is non-spherical and points on the outer surface at varying distances from the center (fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device of Koros et al, as modified, with the shape of Markham to create a device with a means to bounce erratically.

As to claim 10, the device of Koros et al., a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, a wall one-sixteenth to five sixteenths of an inch thick, a felt cover affixed to the outer surface of the core. The device of Koros, does not disclose an inner wall portion circumscribing an aperture extending completely through said core and a rope extending through said aperture. The device Garrison however, discloses a device with an inner wall portion circumscribing an aperture extending completely through said core and a rope through said aperture (16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to create an inner wall portion circumscribing an aperture extending completely through said core and a rope through said aperture of the device of Koros et al., in order to create another means for a dog to grasp the device. Not disclosed is the device, as modified, being non-spherical and points on the outer surface at varying distances from the center. Markham, however, discloses a device that is non-spherical and points on the outer surface at varying distances from the center (fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device of Koros et al, as modified, with the shape of Markham to create a device with a means to bounce erratically.

### ***Conclusion***

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Handelsman (6112703) discloses a related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on 7-5 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T Jordan can be reached on 703.306.4159. The fax phone numbers for the organization where this application or proceeding is assigned are

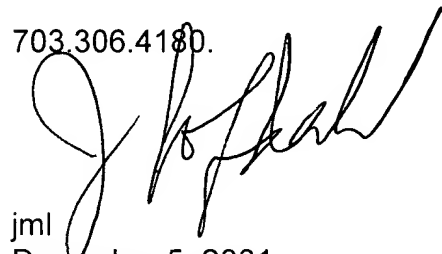


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703.305.7687 for regular communications and 703.305.7687 for After Final communications.

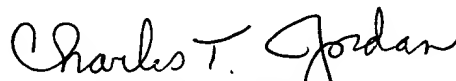
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

703.306.4180.



jml

December 5, 2001



CHARLES T. JORDAN  
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